

MR MIHIR THAKORE with MS MEGHA JANI for Respondent No. 3
MR SB VAKIL for Respondent No. 4
MR RAJESH R DEWAL for Respondent No. 5, 6, 7, 8

2. Special Civil Application No 3481 of 1997

MR JS YADAV for Petitioners
MR SN SHELAT, ADDL. ADVOCATE GENERAL with MR PG DESAI,
GOVT. PLEADER, for Respondent No. 1
MR DA BAMBHANIA, GOVT. SOLICITOR, for Respondent No. 2
MR PR NANAVATI for Respondent No. 3
MR MIHIR THAKORE with MS MEGHA JANI for Respondent No. 8
MR MIHIR H. JOSHI for Respondent No. 9, 12
MR SB VAKIL, for Respondent No. 13
Rest served

CORAM : THE CHIEF JUSTICE MR. K.SREEDHARAN and
MR.JUSTICE A.R.DAVE

Date of decision: 06/05/98

C.A.V. JUDGMENT (Per A.R. Dave, J.)

As subject-matter of Special Civil Applications
Nos. 737 of 1997 and 3481 of 1997 is practically the
same, with consent of the learned advocates, the said
matters are heard and finally decided together.

2. By way of public interest litigation, the
petitioners in the petitions referred to hereinabove have
approached this Court to see that working conditions of
workmen working at Alang Ship Breaking Yard is improved.
It has been submitted by the petitioners that working
conditions of the workmen working at Alang Ship Breaking
Yard are not properly looked after by the concerned
officers of the Labour Department. It has also been
submitted that there is no infrastructure providing for
housing and drinking water for the workmen, education
facilities for children of the workmen and there are no
safety precautions for prevention of fire. Very often
incidents of fire take place which ultimately result in
serious injuries to the workmen working at the yard. It
has been therefore prayed in the petitions that the
respondent authorities should look into the problems of
the workmen and suitable directions should be given to
the concerned respondents for providing housing colonies
for workmen and a suitable hospital with a trauma centre,
burns ward etc. should be established near the yard. It
has also been prayed that the officers concerned with
implementation of labour laws should be directed to be
more vigilant. Thus, in a nutshell, the petitions have
been filed to see that basic amenities are provided to

the workmen working at Alang Ship Breaking yard.

3. We have heard the learned advocates and have also perused the report submitted by Shri Haroobhai Mehta Committee. The Government had formed a committee under the chairmanship of Shri Haroobhai Mehta, former Member of Parliament, to go into the working conditions of the workmen working at Alang Ship Breaking Yard.

4. During pendency of the petition, the respondents were given certain directions from time to time so as to see that some facilities are given to the workmen. The affidavits have been filed by the State of Gujarat, Gujarat Maritime Board and a representative of the association of some of the ship breakers at Alang Ship Breaking Yard.

5. After hearing the concerned advocates and upon perusal of the report, prima facie it appears that the facilities which are provided to the workmen working at Alang Ship Breaking Yard are not sufficient. However, we are happy to note that during pendency of the petition, the concerned respondents have extended their co-operation and have done the needful in pursuance of interim directions given by this Court.

6. The petitioners have ventilated grievance with regard to non-supply of potable water for workmen, inadequate housing facilities, lack of medical facilities and education facilities for children of the workmen, non-enforcement of labour laws and inadequate fire safety measures taken by the ship breakers. There appears to be much substance in the grievances ventilated and, therefore, we think it proper to give certain directions on some of the subjects referred to by the petitioners.

7. So far as supply of potable water is concerned, it appears that formerly there was no arrangement for supply of potable water to the workmen but during pendency of the petition, the Gujarat Maritime Board (for short 'the Board') has made arrangements for supply of 5000 litres of potable water to each ship breaker per day. The said arrangement should be continued till construction of two bores is over and adequate water is supplied through the bores. Moreover, the Board has planned to construct a check dam. Necessary permission from the Irrigation Dept. has been sought for and upon getting necessary permission and after construction of a check dam, the Board should start supply of water through pipelines to ship breakers and to the housing colonies of workmen which are to be constructed.

8. With regard to medical treatment for workmen, the Board has stated that a hospital has been established with a trauma centre and burns ward. It is hoped that the said hospital should also have an orthopaedic ward. A sum of Rs. 25 lakhs has been donated by the Board to Indian Red Cross Society which is managing the said hospital and a sum of Rs. 7 lakhs has been donated to a T.B. hospital by the Board so that the workmen working at the ship breaking yard can avail of medical facilities at the said hospitals.

9. During pendency of the petition a public charitable trust in the name of 'Alang Ship Breaking Workers' Welfare Charitable Trust' has been constituted under the chairmanship of Justice B.J. Diwan, ex-Chief Justice of Gujarat High Court. Necessary financial assistance to the hospital managed by Indian Red Cross Society established near the ship breaking yard should be given by the trust. A sum of Rs. 1 lakh per ship breaker has been given to the trust and the said amount shall be used by the trust for its objects. Thus, the trust will be having sufficient corpus so as to render financial help to the hospital. An arrangement can be made by the hospital for recovery of treatment charges from the employer of the concerned workmen so as to see that the hospital gets regular income for its maintenance and development.

10. So far as education facilities for children of the workmen are concerned, prima facie it appears that it would not be just and proper to give any direction for establishment of any educational institution for the reason that most of the workmen are non-Gujaratis and they have come from different states. Most of them have not brought their family members and therefore it would be futile to give any directions with regard to establishment of any school for imparting education to the children of the workmen. A Gujarati medium school is available in a nearby village and therefore we need not give any direction for establishment of any educational institution.

11. So far as enforcement of labour laws is concerned, the learned advocate appearing for the Commissioner of Labour and Chief Inspector of Factories has submitted that adequate number of officers shall be appointed to see that provisions of all labour laws are strictly complied with. It has been submitted that most of the workmen are getting more wages than the wages fixed under provisions of the Minimum Wages Act. However, it was found that some of the workmen working at the Alang Ship Breaking Yard were not getting wages as

per provisions of the Minimum Wages Act and therefore appropriate actions have been taken against the concerned employers. It appears that provisions of the Factories Act have not been strictly complied with in many units. We therefore direct the Chief Inspector of Factories to depute sufficient number of factory inspectors so that each and every unit can be inspected at least twice a month by the concerned inspector and appropriate action can be taken against the units which are not strictly following the provisions of the Factories Act. With regard to enforcement of other labour laws, the learned advocate has assured this Court that sufficient number of labour officers shall be posted at the Yard so as to see that provisions of labour laws are duly complied with. We direct the Commissioner of Labour and Chief Inspector of Factories to appoint adequate number of officers preferably before 31st July 1998 so that provisions of all labour laws can be strictly enforced.

12. With regard to sanitation, it has been submitted that two sanitation units have been established by the Board which are managed by NASA. Even the Board is of the view that looking to the strength of workmen working at the Yard, two such sanitation units are not sufficient. In the circumstances, the Board should construct four more such sanitation units which might be managed either by NASA or by the Board itself. We therefore direct the Board to construct four more sanitation units and we hope that the construction should be over by 31st August 1998.

13. So far as housing for workmen is concerned, the Government is to acquire land so that the acquired land can be given to the Board to enable the Board or the ship breakers to put up dwelling units for workmen on the lands so acquired. Though initially the Board had agreed to put up construction of dwelling units, the Board is now not inclined to put up construction of dwelling units for the reason that the duty to provide dwelling units is of the employer and the Board, not being an employer of the workmen, is not ready and willing to incur huge expenditure for constructing dwelling units. Upon completion of the acquisition proceedings, the Board should sell or lease the lands so acquired to the ship breakers or any body formed by the ship breakers so that the ship breakers can construct dwelling units for their workmen. As stated hereinabove, most of the workmen are not with their families and therefore dormitory type of dwelling units may be constructed by the ship breakers so that the workmen can have reasonably good accommodation. The Board is directed to see that suitable accommodation

is provided by putting up necessary construction by the ship breakers. Appropriate measures should be taken by the Board if the ship breakers do not complete construction of suitable accommodation within the time frame which might be prescribed by the Board. It would be the duty of the Board to provide approach road connecting the ship breaking yard and the housing colonies and to provide potable water at the dwelling units from the bores which are being constructed or from the check dam which is to be constructed in near future. With the help of the Collector, Bhavnagar, adequate number of fair price shops should be established in the vicinity of the dwelling units of the workmen so that the workmen can get ration, kerosene etc. at reasonable rates as per policy of the State of Gujarat.

14. With regard to fire safety measures, by an order dated 12.2.98, the State of Gujarat in Ports and Fisheries Dept. has constituted an expert committee to study safety regulations relating to ship breaking activities. The said committee was supposed to submit its report within 2 months. If the report has not been submitted so far, the committee shall strive to submit its report as soon as possible. It may be noted that the committee consists of experts like the Commissioner of Labour, Gujarat State, Deputy Chief Controller of Explosives, Chief Factory Inspector, etc. As the committee consists of experts, we are sure that the recommendations which might be made by the committee would be given legal force by the government as soon as possible so that the exercise done by the committee may not be in vain. Effective steps should be taken by the authorities to implement the suggestions made by the committee.

15. In order to see that accidents of fire do not take place and adequate safety precautions are taken, a Memorandum of Understanding was arrived at on 7th June 1997 amongst the Vice-Chairman and Chief Executive Officer of the Board, President of Gujarat Ship Breakers' Association and SOSIYA Ship Breakers Association. The said Memorandum of Understanding was to remain in operation for a period of 2 months from 7.6.97. The said Memorandum contains several laudable provisions for safety measures, enforcement of which would surely avert fire hazards. Till report of the expert committee appointed by the State of Gujarat is given legal force, we direct that the conditions incorporated in the Memorandum of Understanding shall continue to remain in force though the terms and conditions of the said memorandum of understanding were to remain in force for a

period of 2 months only.

16. It has also been prayed in Special Civil Application No. 3481/97 that the workmen who died on account of accidents which had taken place in the process of ship breaking should be adequately compensated. During pendency of these petitions, ex-gratia payments have been made to heirs of the deceased by the concerned ship breakers. Moreover, compensation is also to be given to those who suffered injuries on account of the accidents. In pursuance of the interim order passed by this Court, amount has been deposited with this Court by the concerned ship breakers so that the final amount which might be awarded to the concerned workmen or heirs of the deceased workmen can be paid therefrom. The amount which is lying with this Court should be transmitted to the Board so that from the said amount the sum which might be awarded under Workmen's Compensation Act can be paid to the injured workmen or heirs of deceased workmen. It would be open to the concerned legal heirs or the injured persons to take appropriate action for getting adequate compensation in accordance with law and therefore at this stage we do not think it proper to give any direction for giving compensation to the concerned persons. Applicants of C.A. No. 31/98 in Special C.A. No. 3481/97 be refunded the amount deposited by them with this Court as the concerned insurance company has already deposited requisite amount with the Workmen's Compensation Tribunal.

17. During pendency of the petitions, it was decided that each ship breaker would donate Rs. 1 lakh to the trust. If any one has paid more than Rs. 1 lakh, he shall be entitled to have refund of the excess amount and whosoever has not paid a sum of Rs. 1 lakh shall pay the same to the Board so that the Board can remit the said amount to the trust. The Board shall do the needful for recovery of the said amount from the ship breakers who have not paid the said amount so far. Thus, we clarify that there shall be a direction to each ship breaker to contribute a sum of Rs. 1 lakh to the trust so that the amount so collected can be used by the trust for welfare of the workmen working at the ship breaking yards.

18. The ship breakers should not forget the fact that if their workmen are happy and contented, their work would be done more efficiently and therefore they should not hesitate in providing funds for welfare of their workmen. We are sure that the Board shall take objective attitude while providing necessary infrastructure for enhancing welfare facilities for the workmen working at

Alang and Sosiya Ship Breaking Yards.

19. In view of the directions given hereinabove with regard to use of funds deposited by the ship breakers, no further orders are required to be passed in Civil Application No. 31/98, Civil Application No. 10221/97 and Civil Application No. 4450/98 in Special Civil Application No. 3481/97 and Civil Application No. 4598/97 in Special Civil Application No. 737/97. The said applications are therefore disposed of as indicated above.

20. Rule is made absolute to the above extent with no order as to costs.

(K. Sreedharan, C.J.)

(A.R. Dave, J.)

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